

**JUDGE MARRERO**

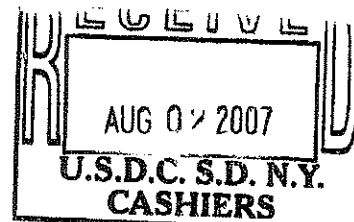
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**07 CV 6940**

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*Attorneys for Dunhill Staffing  
Systems, Inc.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



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In the Matter of The Arbitration of Certain Controversies :  
Between: :

DUNHILL FRANCHISEES TRUST :

Petitioner, :

-and- :

DUNHILL STAFFING SYSTEMS, INC., :

Respondent. :

Case No.:

----- X  
TO: The Honorable Judge of the United States District Court for the  
Southern District of New York

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441 *et seq.*, Dunhill Staffing Systems, Inc., ("Respondent") hereby notices the removal of this civil action from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York. Respondent expressly reserves all available objections and defenses, including, without limitation, lack of jurisdiction over the person, insufficiency of process, insufficiency of service of process, improper joinder and failure to join a party under Rule 19.

In further support of this Notice of Removal, Respondent states as follows:

**PROCEEDING TO DATE**

1. On or about July 16, 2007, Petitioner, Dunhill Franchisees Trust, filed a Notice of Petition in the Supreme Court of the State of New York, County of New York, Index No. 109725/07, for a judgment pursuant to C.P.L.R. §7510 confirming the award of the arbitrator dated May 25, 2005, and directing that judgment be entered thereon, and for such other and further relief as may be just, proper and equitable, together with interest from the date of the award, attorney's fees, and the costs and disbursement of the proceeding.

2. No further proceedings have been had in the New York Supreme Court as of the date of filing of this Notice of Removal. Pursuant to 28 U.S.C. §1446(a), attached as Exhibit A to this Notice of Removal is a true and correct copy of all process, pleadings and orders served upon Dunhill Staffing Systems, Inc.

**GROUND FOR REMOVAL**

This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1441, for the following reasons:

3. Petitioner is a trust representing the interests of a group of several former franchisees<sup>1</sup> of Respondent.

- Franchisee Harvey Hauer is a citizen of the state of North Carolina;
- Franchisee Bud Westover is a citizen of the state of Texas;
- Franchisee Michael Lamanna is a citizen of the state of California;

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<sup>1</sup> During the pendency of the arbitration proceeding and prior to January 2007, many of the franchisees, initially named as respondents in Dunhill Staffing Systems, Inc.'s Demand for Arbitration, settled their disputes. Only five trust members participated in the arbitration proceeding.

- Franchisees Elias Zinn and Michael Wilcoxson<sup>2</sup> are citizens of the state of Texas.

4. Respondent is a corporation organized and existing under the laws of the State of Delaware with its principal offices located at 9190 Priority Way, West Drive, Suite 201, Indianapolis, Indiana 46240.

5. The amount in controversy is more than \$75,000 exclusive of interest and costs.

6. Respondent was served with the Petition on or about July 23, 2007. This Notice of Removal is timely under the provisions of 28 U.S.C. § 1446(b), as it is filed within thirty (30) days of Respondent's receipt of the initial pleading in this action.

7. Petitioner's action is pending in the Supreme Court for the State of New York, County of New York, which is within this judicial district and division. *See* 28 U.S.C. §112(b). This Court is the proper venue for removal under 28 U.S.C. §§ 1441(a), 1446(a).

8. Petitioner's action is based upon and seeks confirmation of an arbitration award that was made in the State of New York, County of New York, which is within this judicial district and division. This Court is the proper venue for removal under 9 U.S.C. §§9 and 10.

9. Pursuant to 28 U.S.C. § 1446(d), concurrently herewith, Respondent is filing a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of New York. Respondent is serving Petitioner with a copy of this Notice of Removal. A copy of the Notice of Filing of Notice of Removal is attached hereto as Exhibit "B."

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<sup>2</sup> Elias Zinn and Michael Wilcoxson were business partners with respect to the Dunhill franchise.

WHEREFORE, Respondent respectfully gives Notice of Removal of the above action now pending against it to the United States District Court for the Southern District of New York, and respectfully requests that this Court proceed as if this case had been originally initiated in this Court.

Dated: New York, New York  
August 2, 2007

GREENBERG TRAURIG, LLP

By: 

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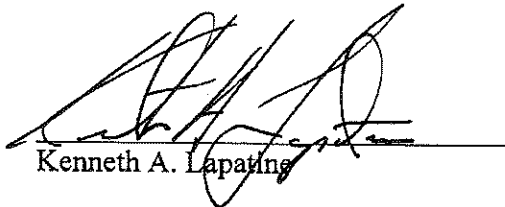
*Attorneys for Respondent*

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I served the foregoing **NOTICE OF REMOVAL** by mailing a true and correct copy thereof to the following person by first-class mail addressed to:

Richard L. Rosen, Esq.  
The Richard L. Rosen Law Firm, PLLC  
110 East 59<sup>th</sup> Street, 23<sup>rd</sup> Floor  
New York, New York 10022  
Tel.: (212) 644-6644

This 2<sup>nd</sup> day of July, 2007.

  
Kenneth A. Lapatine